

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
Baltimore Division**

In Re: Cynthia Cordelia Neal

Case No. 13-30272-RAG
Chapter 13

OneWest Bank N.A., Movant
vs.

Cynthia Cordelia Neal aka Cynthia C Neal,
Debtor
Timothy J Mummert, Esq., Trustee
Respondent(s)

**MOTION FOR RELIEF FROM STAY
Real Property at 4176 Muddy Creek Road, Harwood, Maryland 20776**

Comes now OneWest Bank N.A. (formerly known as OneWest Bank, FSB), Movant herein, by Kyle J. Moulding, Esq., its attorney and respectfully represents:

1. This Motion is filed pursuant to 11 U.S.C. Sec. 362 d through f, and 28 U.S.C. Section 1334 and Section 157, giving this Court jurisdiction to grant relief from the Automatic Stay for cause and/or to prevent irreparable damage to the interest of a secured creditor in the property of the Debtor.

2. OneWest Bank N.A. is the holder of a Note secured by a Deed of Trust dated September 20, 2007, and recorded among the land records of Anne Arundel County, Maryland, and which encumbers the property at 4176 Muddy Creek Road, Harwood, Maryland 20776.

3. The loan secured by the above described property was in default, and following the requisite notice and advertising, the property was sold at foreclosure on December 3, 2013 as will be reported in Civil No. 02C13180202, in the Circuit Court for Anne Arundel County, Maryland when the stay is lifted. The property was sold to OWB REO, LLC, for the bid price of \$341,025.62. (Copy of Report of Sale to be filed attached.)

4. This bankruptcy proceeding was filed on December 3, 2013 at 10:47 a.m. after the foreclosure sale was held.

5. The Movant contends that the Debtor has no interest in the property because the foreclosure sale held on December 3, 2013, prior to the filing of this bankruptcy, divested the mortgagor of all rights of redemption and vested equitable title in the purchaser at the foreclosure sale. Settled Maryland law holds that after the completion of the foreclosure sale, the mortgagors' equity of redemption ceases to exist as an interest in land.

6. In support of this Motion, the Movant cites the Opinion of this court in In Re Shirley, 30 BR 195 (Bankr.D.Md.1983) which cites the Maryland cases of Union Trust Co. v. Biggs, 137 A. 509 (1927) and Butler v. Daum, 226 A.2d 261 (1967) noting that all rights of the mortgagors are deemed to have ceased to exist as of the date of the sale, and In Re Wallace, 31 BR 64 (Bankr. D. Md. 1983), and ICM Mortgage Corp. v. Edwards, 62 BR 609 (Bankr. D. Md. 1986) which also held that, under Maryland law, the Debtor's interest in the property was extinguished by the foreclosure sale. In a Memorandum of Decision issued in In Re DeSouza 135 B.R. 793 (Bkrcty.D.Md. 1991), Judge Mannes reiterated the position of the Maryland bankruptcy courts that, after a foreclosure sale, both the equity of redemption and equitable ownership are extinguished. See also, In Re Denny 242 B.R. 593 (Bkrcty.D.Md. 1999).

WHEREFORE, the Movant prays this Honorable Court to enter an Order

1. Terminating the automatic stay as to the real property at **4176 Muddy Creek Road, Harwood, Maryland 20776** to permit the Movant to complete the foreclosure proceedings pending in the Circuit Court Anne Arundel County, Maryland at Civil No. 02C13180202 and to permit the Movant to obtain possession of the real property after foreclosure; or alternatively,

2. For such other relief as the Court may deem proper.

/s/ Kyle J. Moulding, Esq. (kmg)
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed, first class, postage prepaid, on October 2, 2014, to Cynthia Cordelia Neal at 416 Collins Road, Edgewater, Maryland 21037. Copies were sent electronically via the CM/ECF system to Timothy J Mummert, Esq., Attorney for Debtor and Nancy Spencer Grigsby, Esq., Trustee.

/s/ Kyle J. Moulding, Esq.